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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,036	02/27/2002	James Bean	3561-131	3987

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EXAMINER
JEAN GILLES, JUDE

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>27 February 2002</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.
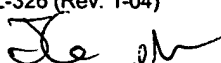
Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>27 February 2002</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

This office action is responsive to communication filed on 02/27/2002.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2.   Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, recites the phrase "*selecting the visitor computer and/or visitor*" in line 3. This phrase is confusing as it does not distinctly claim a specific subject matter .

Claim 1, recites the phrase "*selecting the visitor computer and/or visitor*" in line 8. This phrase is confusing as it does not distinctly claim a specific subject matter.

Claim 1, recites the phrase "*selecting the visitor computer and/or visitor*" in line 9. This phrase is confusing as it does not distinctly claim a specific subject matter.

The above noticed problems are just exemplary. Correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al (Boyd), U.S. Patent No. 6,360,261 B1 in view of Barg et al (Barg), U.S. Pub. No 2002/0070953 A1.

Regarding **claim 1**, Boyd teaches the invention substantially as claimed. Boyd discloses a method for tracking and reporting traffic activity on a web site (*fig. 1, items 9-19*), comprising:

storing a web page on a first server coupled to a network (*column 6, lines 29-37; fig. 3A, items 10-11*);

requesting the web page from a visitor computer (*column 6, lines 29-37; fig. 3A, items 10-11*);

selecting the visitor computer and/or visitor for inclusion or non-inclusion within a sample group, said sample group being a subset of total traffic to the web site (*column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D, items 41-43; note that the total number of hits is 500 hundred hits recorded so far in table 40A and that the sampling group can be considered to be tale 42, keeping the new records' data*);

tracking traffic activity to the web site from the visitor computer and/or visitor only if the visitor computer and/or visitor is a member within the sample group, otherwise ignoring the traffic activity from the visitor computer and/or

visitor (*column 7, lines 1-21*). However, Boyd does not specifically disclose

storing on the visitor computer a selection indicator associating with the inclusion

or non-inclusion.

In the same field of endeavor, Barg teaches a method ("*..when a the first*

web page requested by a visitor is forwarded back to that visitor, tracking

information, usually in the form of a cookie is transmitted with the requested first

page. The cookie which resides on the visitor's client's machine transmits the

tracking information back to the web site with the request...) [*see Brag, Par.*

0090-0091].

Accordingly, it would have been obvious to one of ordinary skill in the

networking art at the time the invention was made to have incorporated Brag's

teachings of a method and apparatus to store tracking and indications associated

with the inclusion or non-inclusion if the visitor or its machine in a sample group,

with the teachings of Boyd, for the purpose of "*providing a system and a method*

for efficiently analyzing traffic data reflecting access information on a web server

operating in a distributed computing environment." as stated by Boyd in lines 16-

20 of column 2. By this rationale **claim 1** is rejected.

Regarding **claim 2**, the combination Boyd-Barg teaches the method of

claim 1, wherein the web page includes web page code, data mining code, and

cookie processing script, the method further including the step of operating the

cookie processing script on the visitor computer to generate the selection

indicator [*see Barg, Par. 0087-0091*]. The same motivation that was utilized in

the combination of claim 1, applies equally as well to claim 2 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 2** is rejected.

Regarding **claim 3**, the combination Boyd-Barg teaches the method of claim 1, the method further including:

storing cookie processing script on a second server [*see Boyd, column 13-20; see Barg, fig. 1, item 12; note that the IIS servers of Barg*];

receiving a request from the visitor computer at the second server [*see Barg, Par. 0090-0091*];

operating the cookie processing script responsive to the request to generate the selection indicator [*see Barg, Par. 0090-0091*]; and

returning the selection indicator to the visitor computer for storage [*see Barg, Par. 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 3 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 3** is rejected.

Regarding **claim 4**, the combination Boyd-Barg teaches the method of claim 1, wherein the first server includes cookie processing script, the method further including the steps of:

operating the cookie processing script responsive to the requesting step to generate the selection indicator [*Barg, Par. 0130-0131; 0090-0092*]; and

returning the selection indicator to the visitor computer for storage [*Barg, Par. 0130-0131; 0090-0092*]. The same motivation that was utilized in the

combination of claim 1, applies equally as well to claim 4 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 4** is rejected.

Regarding **claim 5**, the combination Boyd-Barg teaches the method of claim 4, further including the steps of:

embedding an image request within the web page [*Barg, Par. 0130-0132; 0090-0092*];

causing the image request to be sent to a second server [*Barg, Par. 0135-0131; 0090-0092*];

returning an image responsive to the image request[*Barg, Par. 0135-0131; 0090-0092*]; and

setting the selection indicator responsive to the image [*Barg, Par. 0135-0131; 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 5 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 5** is rejected.

Regarding **claim 6**, the combination Boyd-Barg teaches the method of claim 1, further including the steps of:

receiving an image at the visitor computer responsive to the web page request[*Barg, Par. 0135-0131; 0090-0092*]; and

setting the selection indicator to "true" at the visitor computer responsive to a first type of received image, otherwise setting the selection indicator to "false" responsive to a second type of image, wherein the image type is one selected from the group consisting of size or color [*Barg, Par. 0230-0235*]. The

same motivation that was utilized in the combination of claim 1, applies equally

as well to claim 6 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 6** is

rejected.

Regarding **claim 7**, the combination Boyd-Barg teaches the method of

claim 6, wherein the selection indicator is set to "true" at the visitor computer

responsive to the received image being 1.times.1 pixel in size, and wherein the

selection indicator is set to "false" responsive to the received image being

1.times.2 pixels in size color [*Barg, Par. 0230-0235*]; Examiner takes notice that

1.times.1 pixels image is well known in the art and that the same motivation that

was utilized in the combination of claim 1, applies equally as well to claim 7 [*see*

Boyd, column 2, lines 16-20]. By this rationale **claim 7** is rejected.

Regarding **claim 8**, the combination Boyd-Barg teaches the method of

claim 6, wherein the selection indicator is set to "true" responsive to the received

image having a first color, and wherein the selection indicator is set to "false"

responsive to received image having a second color [*Barg, Par. 0230-0235*]. The

same motivation that was utilized in the combination of claim 1, applies equally

as well to claim 8 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 8** is

rejected.

Regarding **claim 9**, the combination Boyd-Barg teaches the method of

claim 1, further including the steps of:

setting a normalization multiplier in accordance with a ratio between the

sample group and the total traffic on the web site; normalizing the traffic activity

by a normalization multiplier; and posting the report including the normalized

traffic activity for viewing over the network [*see Boyd, column 6, lines 46-67;*

column 7, lines 1-21; fig. 5, items 40 A-D, items 41-43]. The same motivation that

was utilized in the combination of claim 1, applies equally as well to claim 9 [*see*

Boyd, column 2, lines 16-20]. By this rationale **claim 9** is rejected.

Regarding **claim 10**, the combination Boyd-Barg teaches a method for

tracking and reporting traffic activity on a web site comprising the steps of:

storing a web page on a first server coupled to a wide area network, said

web page having web page code and data mining code including a cookie

processing script [*see Boyd column 6, lines 29-37; fig. 3A, items 10-11*];

uploading the web page to a visitor computer responsive to a request over

the wide area network from the visitor computer [*see Boyd, column 6, lines 29-*

37; fig. 3A, items 10-11];

operating the cookie processing script on the web browsing data to obtain

at least one new cookie value, said new cookie value including a visitor selection

value [*see Barg, Par. 0087-0091*]; and

storing the new cookie on the visitor computer including the new cookie

value [*see Barg, Par. 0087-0091*]. The same motivation that was utilized in the

combination of claim 1, applies equally as well to claim 10 [*see Boyd, column 2,*

lines 16-20]. By this rationale **claim 10** is rejected.

Regarding **claim 11**, the combination Boyd-Barg teaches the method of

claim 10, further including the step of operating the data mining code on the

visitor computer to obtain web browsing data responsive to the visitor selection value [*see Barg, Par. 0087-0091*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 11 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 11** is rejected.

Regarding **claim 12**, the combination Boyd-Barg teaches the method of claim 10, further including the step of operating the data mining code on the visitor computer to obtain web browsing data if the visitor selection value is set to "true", otherwise not operating the data mining code on the visitor computer [*Barg, Par. 0230-0235*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 12 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 12** is rejected.

Regarding **claim 13**, the combination Boyd-Barg teaches the method of claim 10, further including the steps of:

attaching the new cookie value to an image request associated with a designated URL source; and sending the image request to the URL source [*see Boyd, column 6, lines 46-67*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 13 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 13** is rejected.

Regarding **claim 14**, the combination Boyd-Barg teaches the method of claim 10, further including the steps of:

operating the data mining code on the visitor computer to obtain web browsing data; compiling the web browsing data into a web page traffic report;

and posting the report for viewing over the wide area network [*see Barg, Par.*

0084-0088]. The same motivation that was utilized in the combination of claim 1,

applies equally as well to claim 14 [*see Boyd, column 2, lines 16-20*]. By this

rationale **claim 14** is rejected.

Regarding **claim 15**, the combination Boyd-Barg teaches a method for

tracking and reporting traffic activity on a web site stored on a web site server,

comprising:

receiving a request at the web site server for a web page from a visitor

computer [*see Boyd, column 6, lines 29-37; fig. 3A, items 10-11*];

determining whether the request is classified within a sample group; and

returning the web page and associated data mining code for operating on

the visitor computer if the request is within the sample group, otherwise returning

just the web page [*see Boyd, column 6, lines 46-67; column 7, lines 1-21; fig. 5,*

items 40 A-D]. The same motivation that was utilized in the combination of claim

1, applies equally as well to claim 15 [*see Boyd, column 2, lines 16-20*]. By this

rationale **claim 15** is rejected.

Regarding **claim 16**, the combination Boyd-Barg teaches the method of

claim 15, further including:

receiving with the request a cookie including a selection indicator; and

determining whether the request is classified within the sample group

responsive to a value of the selection indicator [*see Barg, Par. 0090-0092*]. The

same motivation that was utilized in the combination of claim 1, applies equally

as well to claim 16 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 16** is rejected.

Regarding **claim 17**, the combination Boyd-Barg teaches the method of claim 15, further including:

generating a selection indicator responsive to the request; and

returning the selection indicator to the visitor computer together with the web page [*see Boyd, column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D*], [*see Barg, Par. 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 17 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 17** is rejected.

Regarding **claim 18**, the combination Boyd-Barg teaches the method of claim 17, further including storing the selection indicator as a cookie within the visitor computer [*see Boyd, column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D*], [*see Barg, Par. 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 18 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 18** is rejected.

Conclusion

5. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Jude Jean-Gilles

Patent Examiner

Art Unit 2143

JJG

March 16, 2005

DAVID WILEY

SUPERVISORY PATENT EXAMINER

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